

EXHIBIT 3

**to Declaration of William J. Goines in Opposition to
Plaintiffs' Motion for Class Certification**

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,
12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;
19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24 DEPOSITION OF KIM LEE BABKA
25

26 DATE: March 7, 2008

27 TIME: 10:03 a.m.

28 LOCATION: Greenberg Traurig
29 1900 University Avenue
30 Fifth Floor
31 East Palo Alto, California

32 REPORTED BY: Mary E. Garland
33 Certified Shorthand Reporter
34 License Number 4721
35

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1 A. Yes. I began in sales in 1996, in June;
2 roughly three months later, I became a department
3 accessories manager; and just under a year, in 1997, I
4 became the general manager of the La Jolla store.

5 In 1999, I moved to Dallas, Texas, and became
6 the general manager there. Roughly a year later, I
7 became the area manager in Dallas. In 2001, I became
8 the district manager in California and Hawaii. And then
9 in 1995, became a regional director, overseeing --

10 MR. GOINES: 2005?

11 THE WITNESS: Excuse me. I'm sorry. 2005.

12 Thank you.

13 -- regional director, overseeing California
14 stores, Arizona; and at that time, Las Vegas and Hawaii.

15 Q. BY MR. KITCHIN: And is your current title
16 regional director?

17 A. Yes.

18 Q. And was your first position, for the
19 approximately three months -- I'm sorry. Your first
20 position in sales, was that in Dallas?

21 A. La Jolla.

22 Q. La Jolla. And then when you were department
23 accessories manager --

24 A. Correct.

25 Q. -- La Jolla, as well?

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1 definitely have the numbers piece in it.

2 We would have the schedule on it, who's
3 working, what managers are on duty, who's working in
4 each department; but it's not -- it really doesn't even
5 closely resemble this. It's just some of the similar
6 information.

7 Q. Is there any document from the full-price
8 stores, that you're aware of, that document when an
9 associate has actually taken a rest break?

10 A. Again, the documents that are in certain stores
11 would be within different department managers' binders
12 or a format like the sign-up sheet, as I had mentioned
13 earlier, but not one that is kept on a daily basis like
14 this.

15 Q. So if I understand you, you're not aware of a
16 document that would detail or memorialize that a sales
17 associate has actually taken a rest break at some
18 specific time?

19 A. Not a standardized format. There are formats
20 in certain stores, and I do know that some of the
21 managers do keep them; but I can't say that it's kept in
22 every single store the same way.

23 Q. And do those that you're aware of set out a
24 plan for the day, when associates are scheduled to take
25 meal or rest breaks?

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1 A. Again, an associate would sign up for when they
2 would like to go. It doesn't always stick, depending on
3 appointments that come in, or how long it may take, or
4 whatever; but there is -- the objective is to plan out a
5 schedule and have -- make sure that breaks are taken.

6 We want our employees to take all their breaks,
7 so. It's very important.

8 Q. I'm going to show you a document that we
9 previously marked as Exhibit 11, "Polo Ralph Lauren
10 Assimilation Handbook," has a date of 2005. Are you
11 familiar with this assimilation handbook?

12 A. Yes, I am.

13 Q. I'm not sure this is all the pages from the
14 assimilation handbook, but it's what we've been using.

15 Was this assimilation handbook used at the
16 full-price retail stores in California?

17 A. Yes.

18 Q. And what was its purpose?

19 A. To assimilate someone or to on-board an
20 associate, and to ensure that they understand, really, a
21 lot of the processes within the four walls.

22 Q. Is this something that was meant for managers,
23 as a guide to assimilating sales associates?

24 A. For both, yes. For a manager, as a guide; and
25 then also for the team, so that the associate was up to

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1 Q. And to your knowledge, was it the expectation
2 that all sales associates employed in all of the retail,
3 full-price stores in California were to receive a copy
4 of the 2007 handbook?

5 A. Yes.

6 Q. And was it the expectation that each of those
7 sales associates would sign an acknowledgment of
8 receiving and understanding the policies?

9 A. Yes.

10 Q. And was the same procedure expected, that
11 copies of the acknowledgment would be put into the
12 employees' files?

13 A. Yes.

14 Q. On page 1524, do you see the section on the
15 right-hand column, "Meal Periods and Breaks"?

16 A. Yes.

17 Q. The first paragraph of that section, second
18 sentence reads, "It is the manager's responsibility to
19 ensure that the appropriate breaks are taken."

20 How do managers at Polo, at this time, make
21 sure that their sales associates are taking all of the
22 rest breaks that they're required to give those
23 associates?

24 A. Discussing it with them, encouraging them, and
25 trying their best to schedule them. You know, I don't

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1 think they actually make anyone take them, but they
2 certainly -- I mean, we're certainly a company that
3 supports taking all breaks. So it's widely discussed
4 and expected.

5 Q. Prior to the rollout of the 2007 handbook, had
6 you heard from any source that any sales associates
7 were, for any reason, not taking all of their rest
8 breaks?

9 A. I don't recall hearing that people weren't
10 taking their rest breaks.

11 Q. Did you ever talk with any of the managers at
12 any of the stores about whether they were having any
13 problems making sure that all sales associates were
14 taking the appropriate rest breaks?

15 A. Well, again, I would say -- I can't say that I
16 heard of problems; but it's widely discussed, whether
17 it's on general managers' call on, you know, every
18 Tuesday or every other Tuesday. It's certainly an
19 expectation, but forcing them to take them is not
20 something I know is done. Encouraging them to take
21 them, absolutely.

22 Q. Have you ever heard anyone say that a sales
23 associate was not taking their breaks because they felt
24 pressured to sell enough merchandise to cover their
25 sales targets or rules?

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1 A. No, I've never heard of that. The only time
2 I've ever heard of someone having a difficulty getting a
3 break in or going later is that they had a customer that
4 they chose not to leave.

5 Q. To your knowledge, has Polo Ralph Lauren ever
6 paid a sales associate an extra hour of pay for missing
7 a rest break?

8 A. I'm not clear on --

9 Q. Yes. Just whether you've ever heard that Polo
10 has paid a sales associate an extra hour because that
11 sales associate didn't take a rest break?

12 A. I don't know.

13 Q. You've never heard that stated, that someone
14 has been paid an extra hour for missing a rest break?

15 A. I don't recall hearing that.

16 Q. Did you ever hear that a sales associate
17 complained about missing rest breaks because there
18 wasn't sufficient floor coverage within their department
19 to permit them to take a rest break?

20 A. No. I've heard of situations where a manager
21 has gone to cover so that they can take a rest break.

22 Q. Would you take a look at page 1525. The
23 left-hand column has "Sample Break Chart." At the very
24 bottom of that column, there's an asterisk, and then it
25 states, "Employees in CA who work more than two hours

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1 the department managers in the San Francisco store about
2 wait times for loss prevention inspections?

3 A. Discussions about -- can you be a little more
4 specific?

5 Q. Yes. Did you ever talk with any manager in the
6 San Francisco store about the wait times that were
7 involved in performing loss prevention inspections?

8 A. I never talked about wait times, but did
9 discuss the urgency in having bag inspections at the end
10 of the day at that back door. I don't know if that's
11 answering. I'm not sure of your question exactly.

12 Q. Based on your observations in all of these
13 stores in your jurisdiction, what do you think the
14 longest -- or what observation have you made as to the
15 longest time a sales associate has had to wait between
16 clocking out at the end of their shift and being
17 released from the store after a bag inspection?

18 A. After a bag inspection?

19 Q. From the time of clocking out to walking out
20 the door after having their bags inspected,

21 A. Oh, after a bag inspection? Seconds.

22 Q. Let me rephrase it. Have you ever had personal
23 observations of someone who clocked out at the end of
24 the shift and then went through a bag inspection to go
25 home? Let me try this once again.

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1 Has anyone in any of the Polo stores over which
2 you have jurisdiction given you any estimate of the time
3 it takes for a sales associate to go from clocking out
4 to leaving the building?

5 A. Probably the longest, two to three minutes.
6 But to answer your prior question, once someone --
7 there's a manager checking the bag, then they just walk
8 right out the door. So I think that's where the
9 confusion --

10 Q. Yes. It was a bad question.

11 A. That's okay.

12 Q. Once the bag check is done, then the door is
13 there and people leave, so it's matter of seconds;
14 correct?

15 A. Right.

16 Q. And so the longest that you've ever heard
17 anyone took between clocking out and having their bags
18 inspected is two or three minutes?

19 A. That I've ever witnessed --

20 Q. That you've ever witnessed?

21 A. Yes.

22 Q. And have you ever heard anyone tell you that
23 sales associates in any of the stores were not able to
24 go through the bag inspection in two or three minutes on
25 a regular basis?

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EXHIBIT 4

**to Declaration of William J. Goines in Opposition to
Plaintiffs' Motion for Class Certification**

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an)
individual; et al.,)
Plaintiffs,)
vs.)
POLO RALPH LAUREN)
CORPORATION, a Delaware)
Corporation; et al.,)
Defendants.)

No. C-07-02780-SI

DEPOSITION OF: DIANA COPELAND
TAKEN ON: Wednesday, May 28, 2008

REPORTED BY:

PATRICIA L. HUBBARD
CSR #3400, CRP #10, RPR #7847

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1 poloclassaction.com?

2 A. No.

3 Q. Did you see any media coverage when
4 this lawsuit was first filed?

5 A. No.

6 Q. Okay. Could you just give me a brief
7 thumbnail sketch of your educational background
8 after high school?

9 A. Sure. Two years associate's degree
10 in college and two years of college after that.
11 Did not receive final bachelor's degree.

12 Q. What was your associate's degree in?

13 A. Liberal studies.

14 Q. Okay. When were you first employed
15 by any of the Polo entities?

16 A. April, 2004.

17 Q. And prior to working for Polo where
18 did you work?

19 A. Gap, Inc.

20 Q. And prior to Gap, Inc.?

21 A. Limited Brands.

22 Q. And before that?

23 A. I was in school.

24 Q. Okay. What was your position with
25 Limited Brands?

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1 April of 2004, what was your position?

2 A. Same as it is today, regional
3 manager.

4 Q. Okay. And is there a fuller title to
5 that? Is it regional manager of something?

6 A. Senior director of stores.

7 Q. And does your region include the
8 entire State of California?

9 A. Yes.

10. Q. Do you cover other states, as well?

11 A. Yes.

12 Q. Which other states?

13 A. Hawaii, Washington, Oregon, Arizona,
14 Nevada.

15 Q. Okay.

16 A. Utah, Colorado, New Mexico, Texas,
17 Minnesota, Missouri, Iowa, Indiana, Illinois.

18 Q. That's it?

19 A. I hope I'm not forgetting one.

20 Q. Okay. That was very well done.

21 And would you describe your current
22 duties and responsibilities as --

23 Is it all right if I refer to your
24 position as regional manager?

25 A. Regional manager is fine.

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1 A. A very long time.

2 Q. And employees were required to abide
3 by the policies in this manual?

4 A. Yes.

5 Q. Until approximately 2007 did Polo
6 have a policy in the factory outlet stores that
7 prohibited employees from discussing their wages
8 with their co-employees?

9 A. The first part of that question, was
10 that until 2007?

11 Q. Yes.

12 A. Was that correct?

13 Could you restate that for me?

14 Q. Is it currently Polo's policy to
15 prohibit employees at the factory outlet stores
16 from discussing their wages with other employees?

17 A. Can't prohibit employees from having
18 discussions.

19 Q. Currently that's -- you brought up
20 currently.

21 That's not a policy that Polo has
22 right now to prohibit employees from discussing
23 their wages with others; is that correct?

24 A. Not that I'm aware of.

25 Q. Was that a policy that was in place

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1 at the factory outlet stores in California prior
2 to 2007?

3 A. I don't know it to be a policy, nor
4 could you prohibit people.

5 Q. I'm going to show you what we
6 previously marked as Exhibit 4. It's some
7 selected pages from the Polo Ralph Lauren 2002
8 Retail Employee Handbook Bates stamped 752 and
9 others.

10 On page -- take a look at page 21 and
11 22. 21 lists a category "Employee Conduct and
12 Responsibilities."

13 You see that?

14 A. Thank you. Okay.

15 Q. The last sentence in the first
16 paragraph reads,

17 "Certain types of unacceptable
18 behavior warrant specific
19 mention."

20 See that?

21 A. I am there.

22 Q. On the next page, item number 23
23 reads,

24 "Divulging personal salary
25 arrangements to other retail

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1 Polo corporation associates."

2 Had you ever seen this policy
3 statement prior to just now?

4 A. I had no recollection of that.

5 Q. Okay. I'll take that back.

6 A. Okay.

7 MR. KITCHIN: Why don't we go off the
8 record, please.

9
10 (Whereupon at 1:53 P.M. a lunch
11 recess was taken.)

12 * * *

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1 A. Sure.

2 Q. Let me show you what we previously
3 marked as Exhibit 69 to these depositions. It's
4 a Monday, December 3, 2007 Daily Planning Agenda
5 for the Alpine, California store.

6 Are you familiar with this form?

7 A. I am.

8 Q. Is this a form that is used in all of
9 the factory outlet stores in California at this
10 time?

11 A. A DPA is used in each of our stores,
12 Daily Planning Agenda.

13 Q. And has a Daily Planning Agenda been
14 in use in all of the factory outlet stores in
15 California since you began your employment there
16 in 2004?

17 A. In a form, yes.

18 Q. So the form itself may have undergone
19 revisions since then?

20 A. Yes.

21 Q. But that some type of a daily
22 planning agenda has been used in the course of
23 your employment at Polo, correct?

24 A. Could you repeat that for me?

25 Q. Although the form may have been

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1 revised or amended over the course of your
2 employment at Polo, some type of Daily Planning
3 Agenda has been used this all of the factory
4 outlet stores since you began working there in
5 2004; is that correct?

6 A. Some form.

7 Q. These Daily Planning Agenda set forth
8 the names of individuals who are going to be
9 working in the store on a specific date; is that
10 correct?

11 A. Yes.

12 Q. And how does the manager use this
13 specific form in the operation of his or her
14 store?

15 A. In what aspect of the operation of
16 the store.

17 Q. How is this form used by your
18 managers at the factory outlets?

19 A. The form is utilized to know who
20 works in the store that day.

21 Q. And does it help the manager to
22 schedule meal breaks for the employees?

23 A. Yes.

24 Q. And what else does it do?

25 A. Gives you job assignments, breaks.

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1 Q. And are you aware of any Daily
2 Planning Agenda forms that have been used by Polo
3 since you were employed by Polo Ralph Lauren that
4 contain information verifying that a scheduled
5 break had indeed been taken by the employee?

6 A. Ask me that again, please.

7 Q. Let me ask it in a different way.

8 Are Daily Planning Agendas used to
9 schedule meal and rest breaks?

10 A. Yes.

11 Q. And the managers fill these out on a
12 daily basis to schedule specific individuals
13 working so that they can schedule meal and rest
14 breaks for those employees, correct?

15 A. No. They're not scheduled each day.

16 Q. How are the meal and rest periods for
17 individuals who are working in a specific store
18 scheduled?

19 A. A week at a time.

20 Q. So when the manager has put together
21 his or her weekly schedule for sales associates
22 and supervisors and managers and so forth, the
23 manager will go in and come up with a plan of
24 when those employees will be working, taking
25 breaks and taking meals, would that be accurate?

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1 A. Yes.

2 Q. Does this form provide evidence that
3 any of the breaks that were scheduled were
4 actually taken?

5 MR. GOINES: Objection to the extent
6 it calls for a legal conclusion.

7 THE WITNESS: Could you say that
8 again?

9 BY MR. KITCHIN:

10 Q. Is there anything on this form that
11 provides confirmation that any of the breaks
12 scheduled were actually taken at the time
13 scheduled?

14 A. The form is utilized to know when to
15 break the employee.

16 Q. Would it be accurate to say that the
17 form is not utilized to memorialize when an
18 employee took a meal or rest break?

19 A. It can be.

20 Q. How can it be?

21 A. By noting on the DPA if the employee
22 has taken his or her break.

23 Q. Is there anything on Exhibit 69 that
24 tells us that the employees listed here took the
25 breaks as scheduled by their manager?

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1 A. I don't see a notation.

2 Q. Have you seen some Daily Planning
3 Agendas that have notations by a manager that the
4 employee had actually taken the break that was
5 scheduled?

6 A. Yes.

7 Q. Has Polo developed a policy for
8 having managers verify that breaks have been
9 taken in the last two years?

10 A. Not a policy per se, but there is a
11 practice.

12 Q. There is a practice by all managers
13 or some managers to note when employees took
14 their meal or rest breaks?

15 A. And you asked me all or some?

16 Q. Yes.

17 A. In California?

18 Q. In California.

19 A. All.

20 Q. So all managers, except for the
21 manager that filled out this form, make a
22 notation as to when an employee has actually
23 taken their meal or rest break?

24 A. It's dependent upon the quality of
25 the execution in each store.

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1 come to perform a bag check inspection?

2 A. Yes.

3 Q. On how many occasions have you seen
4 employees at the exit waiting for a manager to
5 come and perform the inspection?

6 A. I don't have a number.

7 Q. Has it happened numerous times when
8 you've seen that or --

9 A. I've seen that a few times.

10 Q. And do you have any knowledge as to
11 how long in any occasions the sales associates
12 had been standing at the exit waiting for a
13 manager to arrive to perform a bag inspection?

14 A. I haven't seen them wait very long.

15 Q. How long have you seen them wait?

16 A. Under a minute.

17 Q. You've never seen any employees at a
18 door waiting longer than a minute for a bag check
19 inspection?

20 A. Not in my estimation.

21 Q. And you have no estimate as to the
22 number of times you've seen those inspections
23 taking place?

24 A. A few.

25 Q. A few.

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Monday, December 3, 2007

Daily Planning Agenda

Store 130 - Alpine, CA

Today Yesterday LY				Open:					Mid:					Evening:				
Time	Goal	Actual	UPT	ADT	Time	Goal	Actual	UPT	ADT	Time	Goal	Actual	UPT	ADT				
10:00a					1:00p					5:00p								
11:00a					2:00p					6:00p								
12:00p					3:00p					7:00p								
					4:00p					8:00p								

Rec: Budget: 4,213 12,676 0 % to Bud: 0.0% 0.0% 0.0% Stretch: SPH: 111 160 UPT: 228 ADT: 78.43 AUR: 33.38	Shift Meeting 	Recognition/Contests 	Product/Promotions
--------------------------------------------------------------------------------------------------------------------------------	-----------------------	------------------------------	----------------------------

Daily Schedule

Managers				0 0 0 0 0 0 0 3 3 3 4 3 3 4 4 4 3 4 4 3 3 2 0 0																							
Shift	On-Call	Breaks		12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11
Renteria, Laura M	7:00a-4:00p		12																								
Woolen, Ashley A	10:00a-7:00p		8																								
Umbrassas, Carole Ann B	12:00p-8:00p		4																								
Ernesto, Ernesto K	1:00p-10:00p		5																								
Management Hours: 35				0	0	0	0	0	0	1	1	1	2	2	3	4	4	4	3	3	3	2	2	1	0	0	
Total Scheduled Managers: 4																											
Leads																											
Shift	On-Call	Breaks		12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11
Smith, Cameron A	5:00p-10:00p		7																								
Leads Hours: 5				0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0
Total Scheduled Associates: 3																											
Sales																											
Shift	On-Call	Breaks		12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11
Dillon, Desires L	7:00a-12:00p		4																								
Schutz, Kyle M	7:00a-11:00a		4																								
Ortega, Erik M																											
Sandstrom, Alexa C																											
Sales Hours: 9				0	0	0	0	0	0	2	2	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0

3 repl
11/28/07 9:29 AM

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Ralph Lauren

08/13/2013 20:08 FAX 16184453704

EXHIBIT 5

**to Declaration of William J. Goines in Opposition to
Plaintiffs' Motion for Class Certification**

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual;
6 JANIS KEEFE, an individual;
7 CORINNE PHIPPS, an individual;
8 and JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

Case No. c-07-02780-SI

12 and

13 POLO RALPH LAUREN CORPORATION,
14 a Delaware corporation; POLO
15 RETAIL, LLC, a Delaware corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware corporation, doing
18 business in California as POLO
19 RETAIL CORP; FASHIONS OUTLET OF
20 AMERICA, INC., a Delaware
21 corporation; and DOES 1-500,
22 inclusive,

23 Defendants.
24 _____/

25 DEPOSITION OF THERESA CRUZ
26
27 DATE: August 20, 2007
28 TIME: 10:00 a.m.
29 LOCATION: LAW OFFICE OF PATRICK R. KITCHIN
30 565 Commercial Street
31 Fourth Floor
32 San Francisco, California 94111
33
34 REPORTED BY: Katy Leonard
35 Certified Shorthand Reporter
36 License Number 11599

Page 1

Golden Gate Reporting

1 the Philippines, and in college, I finished it in the
2 Philippines also. I took up a Bachelor of Science major
3 in interior design.

4 Q. And when was that degree awarded?

5 A. 1984.

6 Q. And what was the university?

7 A. University of Santo Tomas.

8 Q. And any other formal education after
9 receiving the degree from the University of Santo Tomas?

10 A. No.

11 Q. When did you start working for Polo Ralph
12 Lauren?

13 A. 1994.

14 Q. And prior to taking that position, what were
15 you doing?

16 A. I was a part-time stock person for GAP and
17 Crate & Barrel.

18 Q. And was that here in San Francisco?

19 A. Yes.

20 Q. And those were both part-time stock
21 positions?

22 A. Yes. For two months.

23 Q. And prior to working for GAP and Crate &
24 Barrel, did you have any other employment within the
25 retail industry?

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1 A. I did.

2 Q. You did?

3 A. Yes.

4 Q. And what was that?

5 A. I worked for our family business.

6 Q. And what kind of business was that?

7 A. Furniture business.

8 Q. And that was in the Philippines?

9 A. Yes.

10 Q. Prior to that, any retail experience?

11 A. No.

12 Q. What position did you begin -- what was your

13 position when you began working for Polo in 1994?

14 A. Cashier.

15 Q. And was that in the San Francisco Polo

16 store?

17 A. Yes.

18 Q. And was that a full-time or part-time

19 position?

20 A. Full-time position.

21 Q. And did you have any management-level duties

22 as a cashier?

23 A. No.

24 Q. How long did you remain a cashier at Polo?

25 A. Till 1997.

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1 Q. And was he general manager of the store?

2 A. He was the general manager.

3 Q. And after working in a position as
4 administrative assistant, did you take another position
5 at the company?

6 A. I did. I was promoted to be the operations
7 manager.

8 Q. And what year was that?

9 A. Between 1997 and 1998.

10 Q. And who did you report to in that position?

11 A. Michael Moser, M-o-s-e-r.

12 Q. And what were your duties as operations
13 manager?

14 A. Um, I took care of the shipping department
15 and I took care of the store, the preparation for the
16 business day and at the end of the day, and I took care
17 of -- we have a few CSR, which is a cashier also -- I
18 took care of them. I took care of the cleaning crew.

19 Q. Anything else?

20 A. Um, basically I'm on the floor taking care
21 of customer also.

22 Q. When you began as operations manager, were
23 you also doing any kind of scheduling for sales
24 associates in the store?

25 A. No.

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1 A. Um, no.

2 Q. Are you still serving in the same position
3 as operations manager?

4 A. Yes.

5 Q. Over the years, have your duties changed in
6 ways that differ from what you described your duties to
7 be when you first began as operations manager?

8 A. No.

9 Q. Okay. When you became operations manager in
10 1997 or 1998, did you undergo any type of training
11 through Polo Ralph Lauren to prepare you for your new
12 position?

13 A. No.

14 Q. Did you have any meetings with any
15 higher-level managers to help you transition from your
16 position as an administrative assistant to operations
17 manager?

18 A. Yes.

19 Q. And who did you meet with to help you in
20 that transition?

21 A. Michael Moser.

22 Q. Anyone else?

23 A. Others are done through telephone to
24 corporate office.

25 Q. At the current time, do you have a specific

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1 Certain types of unacceptable behavior
2 warrant specific mention.

3 And then on this page, 773, there are 13
4 items, and on the next page it goes to 27 items.

5 Do you remember seeing this specific list of
6 unacceptable behavior?

7 A. Um, no.

8 Q. No.

9 Take a look at page 774, if you would. Item
10 No. 23 reads, quote:

11 Divulging personal salary arrangements
12 to other Polo Retail Corporation
13 associates, closed quote.

14 Was it Polo's policy in San Francisco to
15 prohibit sales associates from telling one another how
16 much money they were earning?

17 A. No.

18 Q. And --

19 A. I don't think it's -- because every single
20 sales associate gets 8 percent commission.

21 Q. Did you ever hear -- do you recall seeing
22 this specific reference that says, "Divulging personal
23 salary arrangements to other Polo Retail Corporation
24 associates"?

25 A. No.

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1 Q. Did you ever tell any sales associate that
2 it was improper for them to talk with other sales
3 associates about how much money they had earned?

4 A. Well, as my own opinion --

5 Q. Well, let me just focus you here.

6 Did you ever tell a sales associate that
7 they were not permitted to tell other sales associates
8 how much money they had earned?

9 A. No.

10 Q. Did you ever hear any other manager at Polo
11 Ralph Lauren in San Francisco tell any sales associates
12 that they were not permitted to share their salary
13 information with any other associate?

14 A. No.

15 Q. You have a personal opinion about this you
16 had -- about this specific item?

17 A. Well, I don't discuss my salary to anybody.

18 Q. Okay. And have you ever been instructed
19 that you're not entitled to do that?

20 A. Well, when I read my employee handbook, when
21 I started with the company, I do recall not to tell
22 anybody about -- not to indulge [sic] your salary with
23 other staff.

24 Q. And you haven't done that?

25 A. No.

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1 was more of a floor coverage -- that making sure that no
2 two people in that department will go at the same time
3 for their 15-minute break or the lunch break.

4 Q. And has that -- were those conversations
5 taking place since this policy manual was put out, or
6 are those conversations that you've had over the course
7 of a longer period of time?

8 A. It's a longer period of time.

9 Q. With respect to meal breaks -- I'm sorry.
10 With respect to the 15-minute rest breaks,
11 have you ever heard any complaint by any employees that
12 they have not been permitted to take their 15-minute
13 rest breaks?

14 A. No.

15 Q. Have you ever heard any managers complain
16 that their associates are just not taking their
17 15-minute rest breaks, even though they're being offered
18 that time?

19 A. No.

20 Q. If you turn to the next page, 1525, there's
21 a reference under "Sample Break Chart." It refers to
22 the very bottom of the page:

23 "Employees in CA -- in California who
24 work more than two hours are entitled to
25 a 15-minute paid break."

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1 Q. And did they ask you to adjust their time
2 based on that?

3 A. Yes.

4 Q. Did you ever go back into the back hallway
5 at the store to see people sitting on the floor waiting
6 to get out of the door so that you could let them out at
7 the end of their shift?

8 A. No.

9 Q. Did you ever see more than three people
10 congregating at the exit -- the employee exit to get out
11 at the end of their shift before you came to let them
12 out?

13 A. Yes.

14 Q. What is the maximum number of people that
15 you've seen standing back at the back waiting to get out
16 of the store?

17 A. I'd say about three or four people.

18 Q. Okay. And did you ever show up at the back
19 door to let people out at the end of their shift and any
20 of them complain to you that they had been waiting there
21 for some period of time?

22 A. Um, they waited for about more than two
23 minutes or three minutes.

24 Q. We have testimony in the case that people
25 had to wait 20 to 30 minutes to get out of the back door

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1 at the end of the shift on a fairly regular occasion.

2 Do you have any recollection of anyone in
3 the store waiting for more than ten minutes to get out
4 of the back door before a manager was present to do a
5 bag inspection?

6 A. No.

7 Q. Did you ever hear anyone claim, other than
8 in this lawsuit, that they were required to wait for
9 more than ten minutes at the back door to get out at the
10 end of their shift?

11 A. No.

12 Q. Did you ever hear anyone complain that they
13 had to wait for more than ten minutes to get in the back
14 door at the beginning of their shift?

15 A. To get in the at the back door at the
16 beginning of their shift?

17 Q. Correct.

18 A. No. Because I'm always there at the
19 morning.

20 Q. And how many days a week do you typically
21 work?

22 A. Five days a week.

23 Q. So, at least one or two of the days, you're
24 not there?

25 A. Yes. And Tin is there in the morning when

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EXHIBIT 6

**to Declaration of William J. Goines in Opposition to
Plaintiffs' Motion for Class Certification**

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;
19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24 DEPOSITION OF VALERIE ANN HARRISON
25

DATE: August 10, 2007

TIME: 10:08 a.m.

LOCATION: 120 Kearny Street
Suite 3200
San Francisco, California

REPORTED BY: Mary E. Garland
Certified Shorthand Reporter
License Number 4721

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1 that you've worked for.

2 A. Let's see. Bath & Body Works was before Ralph
3 Lauren. I also worked -- this may not be in order --
4 for a company called The Best of Times, which is clocks
5 and watches, that was also retail. I worked for the
6 Southland Corporation, which was actually considered
7 wholesale, but it's similar as far as structure, as far
8 as selling. And I worked for a small company while I
9 was in college and while I was still in high school
10 called The Loop, back in Michigan.

11 Q. Did you work as a manager for any of those
12 companies?

13 A. Yes.

14 Q. In which companies were you management level?

15 A. Let's see. The Loop, the Best of Times,
16 Bath & Body Works, and obviously Polo.

17 Q. And so in June of 2000, you joined Polo?

18 A. Yes..

19 Q. And what was your initial position at Polo?

20 A. I was the assistant Home Collection manager.

21 Q. And who was the Home Collection manager at that
22 time?

23 A. Cynthia McCullough.

24 Q. And do you recall how you ended up taking a job
25 as the assistant Home Collections manager?

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1 Q. Do you recall whether you were given any
2 handouts relating to management capabilities to modify
3 or change time record entries?

4 A. I don't recall.

5 Q. Do you recall during the 2000, 2001 time frame
6 whether there was a specific time card modification form
7 that needed to be filled out whenever any change to a
8 time record was made?

9 A. I don't recall that far back.

10 Q. During that first year of employment at Polo,
11 did you undergo any training in any other location,
12 other than the Polo Ralph Lauren store here in San
13 Francisco?

14 A. It was all in San Francisco.

15 Q. You didn't undergo any training in the
16 corporate office in New York or New Jersey?

17 A. No.

18 Q. At some point, you were promoted to department
19 manager; is that correct?

20 A. That's correct.

21 Q. And when did that change take place?

22 A. That was the end of July, beginning of August
23 of 2001.

24 Q. And did Cynthia McCullough leave at that time?

25 A. Yes.

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1 Q. Was someone else promoted or hired to serve as
2 assistant Home Collections manager?

3 A. No.

4 Q. Throughout the course of your employment after
5 July, August 2001, was there ever anyone who was put
6 into the position as assistant Home Collections manager?

7 A. No.

8 Q. When did you actually leave Polo Ralph Lauren?

9 A. It was beginning of July.

10 Q. Of this year?

11 A. Yes.

12 Q. And why did you leave Polo in July of this
13 year?

14 A. To pursue a career more in the design world.

15 Q. You left on good terms with Polo?

16 A. Yes.

17 Q. I'd like to go through kind of a thumbnail
18 sketch of your duties as assistant manager during that
19 what ends up being a little over a year from 2000 to
20 2001. Could you just briefly describe what your duties
21 were in that position.

22 A. To be on the sales floor, and also not only be
23 a support to the sales associates, but also to sell, was
24 basically my main objective; meaning support. If they
25 needed help with a client, if they needed me to grab

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1 to put their bags in, personal items?

2 A. There were lockers. Generally, they were too
3 small for most people's bags. There were also
4 cubbyholes at the back door, as well.

5 Q. And so was the process during that first year
6 that an individual sales associate would clock out on a
7 cash register and then go collect their personal items,
8 if they had any there, and then go to the back door to
9 be inspected, and then leave?

10 A. Yes.

11 Q. During that first year, were there occasions,
12 that you observed or heard about where sales associates
13 had to wait for a manager to come and let them out of
14 the building after performing a bag inspection?

15 A. Not that I recall.

16 Q. So based on your best recollection here today,
17 is it your testimony that employees who were leaving
18 always encountered a manager at the back door when they
19 were ready to leave?

20 A. I -- to be honest with you, I don't -- I can't
21 speak to that far back, as far as what I remember
22 exactly. And, obviously, it varied from day to day.

23 Q. During that first year, did any sales associate
24 tell you that they had had to wait for some period of
25 time to have their bags inspected?

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1 A. Not that I recall.

2 Q. During that first year of time, did any of the
3 other managers discuss with you or in your presence any
4 concerns about the loss prevention inspection process?

5 A. Not that I recall.

6 Q. Did you, as an assistant manager during that
7 first year, participate in management meetings?

8 A. Yes.

9 Q. And were management meetings held on a regular,
10 scheduled basis?

11 A. I don't remember that far back.

12 Q. Was the loss prevention inspection process ever
13 discussed in any of the management meetings back during
14 that first year?

15 A. Not that I recall.

16 Q. During that first year, at any of the
17 management meetings, was it ever discussed that sales
18 associates were having a difficult time getting back
19 into the building, that is, to have someone open the
20 door for them?

21 A. Not that I recall.

22 Q. During your first year of employment as
23 assistant manager, at the end of the day, at 6:15, were
24 all of the cash registers typically operational?

25 A. The first year, CSRs would begin closing

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1 Q. And I should have written this down, but you
2 said that there were somewhere around 20 individuals who
3 were working --

4 A. I would estimate.

5 Q. What is the largest number of sales associates
6 that you can recall doing bag inspections for at the end
7 of their shifts during that first year?

8 A. Oh, boy. I don't recall.

9 Q. Do you have a recollection of doing ten bag
10 inspections, one after the other, that first year?

11 A. Possibly. Because we had -- we did have LP
12 also helping out. We didn't -- I mean, it wasn't an
13 everyday thing. It's possible.

14 Q. Do you have an estimate as to the longest time
15 it took for a sales associate, during that first year,
16 to undergo a bag inspection at the end of their shift
17 when you were performing the bag inspections?

18 A. I don't recall. I can't imagine it would be
19 more than a few minutes.

20 Q. Were the loss prevention policies that were in
21 place during your first year of employment applied
22 consistently to all sales associates in the store?

23 A. Yes.

24 Q. And why were they applied consistently to all
25 sales associates?

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1 that they had to wait for a manager to come to the back
2 door to let them out at the end of the shift was too
3 long?

4 A. At the end of the shift, no.

5 Q. Did you ever hear any employee complain, any
6 sales associate complain that they had been stuck
7 outside, ringing the doorbell, in the morning, trying to
8 get to work and no one showed up to open the door for
9 some unreasonable period of time?

10 A. If they had to wait, they probably only had to
11 wait a few moments, because --

12 Q. That's not my question. My question is: Did
13 you ever hear anyone complain that they came in the
14 morning and had to stand out there an unreasonable
15 amount of time, from their perspective, to get in
16 because no one answered the door?

17 A. I have had people say that they had to wait.

18 Q. And who told you that they had to wait?

19 A. I don't recall. It was a couple of people.
20 And they didn't say how long they had to wait. They
21 just said that they were outside waiting to be in, let
22 in.

23 Q. Did Corinne Phipps tell you that she had been
24 delayed for some period of time outside, trying to get
25 in for her morning clock-in?

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1 A. I don't recall her ever saying that.

2 Q. Did any sales associates, throughout the time
3 you were working for Polo in San Francisco, ever
4 complain to you that they had been required to wait for
5 what they thought was an unreasonable amount of time
6 outside of the store when they returned from their lunch
7 break?

8 A. I have had people say that they had to wait a
9 couple of times. It was on occasion, though.

10 Q. And who were those people that told you that
11 they had to wait?

12 A. I don't recall. I just recall that that was --
13 there was a couple occasions that that did happen.

14 Q. Did anyone ever ask you to adjust their time
15 because they had been what they felt had been delayed in
16 getting in the back door to start their shift?

17 A. Not that I can recall.

18 Q. Did anyone make such a complaint regarding
19 waiting at the end of their lunch break to get back in
20 and ask you to adjust their time because they had been
21 stuck outside?

22 A. Again, I don't recall making those kind of
23 adjustments.

24 Q. Do you recall hearing from anyone in the store,
25 from managers, from sales associates, that anyone

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1 considered the waiting time to get out of the store at
2 the end of their shift was unreasonable?

3 A. Not that I recall. I mean, there were people
4 sometimes that had to wait a few minutes to get out the
5 back door for a manager to come from the floor, but it
6 was not more than maybe a few minutes.

7 Q. So you've never heard that anyone ever had to
8 wait a half hour to get out of the store because
9 managers were too busy doing something else?

10 A. Not when I was there.

11 Q. Did you ever hear that anyone had to wait for
12 up to 15 minutes to get out of the store because a
13 manager or the managers were too busy to let them out?

14 A. Fifteen minutes? No.

15 Q. Did you ever hear from anyone at the store that
16 they had waited for 10 or 15 minutes, or more to get
17 into the store at any period of time when they were
18 trying to get to work?

19 A. No.

20 Q. Did you ever hear from anyone at the store that
21 they were required to wait 10 or 15 minutes to get back
22 in after their lunch break?

23 A. Again, I had people say that they'd had to wait
24 a few minutes, but not 10 or 15.

25 (Exhibit 15 marked for identification.)

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1 or the sales floor was busy, so on and so forth.

2 Q. Did Kristi Mogel talk about, during this
3 meeting when this was rolled out, any compensation for
4 missed meal or rest breaks?

5 A. I don't recall that that was discussed.

6 Q. Who at the meeting talked about sales
7 associates missing their meal or rest breaks?

8 A. Actually, I did bring that one subject up --
9 not so much meals, but rest breaks only -- because it's
10 not that I didn't always encourage it and tell them they
11 should take their breaks, but that was opposition that I
12 got from some of my senior sales associates.

13 Q. I'm sorry. That was the opposition?

14 A. They would come to me and say, you know, "I'd
15 rather be on the sales floor."

16 Q. So none of your sales associates complained
17 that they weren't able to take their breaks?

18 A. No.

19 Q. Did anyone else at the meeting when this new
20 manual was rolled out say anything about their sales
21 associates in their departments taking or not taking
22 rest and meal breaks?

23 A. Not that I recall.

24 Q. What more did Kristi Mogel say about the meal
25 and rest breaks?

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1 A. Just that we were to, you know, tell them that
2 they needed to take their breaks and encourage it. And,
3 that, obviously, like, you know, a senior seller that
4 has an appointment and wants to forego the 15-minute
5 break, you just have to make sure that, you know, you're
6 encouraging it and telling them they need to take their
7 full breaks.

8 Q. Did Kristi Mogel say that this had been a
9 problem at the San Francisco store, that sales
10 associates were not, for whatever reason, taking either
11 their meal or rest breaks?

12 A. No.

13 Q. On page 1532, at the bottom right-hand column,
14 it says "Employee Conduct and Responsibilities," and it
15 repeats some of the language that we've seen in the
16 other manuals.

17 A. Mm-hm.

18 Q. On the following page, 1533, this long list of
19 prohibited behavior -- "unacceptable behavior," it
20 says -- there's no language in here now regarding the
21 prohibition against disclosing wages.

22 Did anyone at this meeting when this was rolled
23 out make reference to whether employees could now, under
24 the Polo's policy, discuss their wages with others?

25 A. I don't recall that being mentioned.

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